

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 09-2534

ALFREDO DOMENECH; IVAN SERRANO,
APPELLANTS

v.

CITY OF PHILADELPHIA; JUDITH RUBINO, Individually and in her professional capacity as Assistant District Attorney with Defendant City of Philadelphia's District Attorney's Office; LEON LUBIEJEWSKI, #743 Individually and in his Professional Capacity as a Detective in Defendant City of Philadelphia's Police Department; OFFICE OF THE DISTRICT ATTORNEY OF PHILADELPHIA; JOHN DOE DETECTIVES 1-3, Individually and in their Professional Capacities as Detectives in Defendant City of Philadelphia's Police Department

On Appeal from the United States District Court
for the Eastern District of Pennsylvania
District Court No. 2-06-cv-01325
District Judge: The Honorable R. Barclay Surrick

Submitted Pursuant to Third Circuit L.A.R. 34.1(a)
March 11, 2010

Before: AMBRO, SMITH, and ALDISERT, *Circuit Judges*

(Filed: April 1, 2010)

JUDGMENT ORDER

SMITH, *Circuit Judge*.

In 1988, Alfredo Domenech and Ivan Serrano were convicted by a Philadelphia jury of murdering Juan Martinez. Although their convictions were affirmed on direct appeal, their petitions for state collateral relief succeeded, and a new trial was granted in 2005. After the Philadelphia District Attorney decided not to retry the case, Domenech and Serrano filed this civil rights action in the United States District Court for the Eastern District of Pennsylvania. They alleged that the City of Philadelphia and various employees of the City's Police Department violated their constitutional rights by, *inter alia*, withholding exculpatory evidence and maliciously prosecuting them for murder. After discovery closed, the City defendants successfully moved for summary judgment. Domenech and Serrano appeal, arguing that the District Court erred because it failed to apply the proper standard for ruling on a motion for summary judgment under Federal Rule of Civil Procedure 56.

“We exercise plenary review over the District Court’s grant of summary judgment” and “apply the same standard that the District Court should have applied.” *Shuman ex rel Shertzer v. Penn Manor Sch. Dist.*, 422 F.3d 141, 146 (3d Cir. 2005) (internal citations omitted). After a review of the briefs and the record, including the District Court’s thorough Memorandum, we find no error in the District Court’s application of Rule 56. Accordingly, it is now hereby ADJUDGED and ORDERED that the judgment of the District Court entered April

23, 2009, be and the same is hereby AFFIRMED. All of the above in accordance with the opinion of this Court. Costs taxed against the Appellants.

By the Court:

/s/ D. Brooks Smith
U.S. Circuit Judge

Date: April 1, 2010